



February 20, 2004

ENGROSSED SENATE BILL No. 17

DIGEST OF SB 17 (Updated February 17, 2004 5:47 pm - DI 105)

Citations Affected: IC 10-13.

Synopsis: Expanded DNA testing. Adds residential entry and incest to the crimes for which an offender committed to the department of corrections (DOC) is required to submit a DNA sample, and requires an offender to submit a DNA sample if the offender is convicted of conspiracy or an attempt to commit certain crimes. Permits the use of DNA data erroneously added to the database.

Effective: July 1, 2004.

**Zakas, Bray, Broden, Ford, Bowser,
Long**

(HOUSE SPONSORS — DVORAK, BOSMA)

November 18, 2003, read first time and referred to Committee on Rules and Legislative Procedure.

December 5, 2003, amended; reassigned to Committee on Judiciary.

January 15, 2004, amended, reported favorably — Do Pass.

January 22, 2004, read second time, ordered engrossed.

January 23, 2004, engrossed.

January 26, 2004, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Courts and Criminal Code.

February 19, 2004, reported — Do Pass; recommitted to Committee on Ways and Means.

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ES 17—LS 6079/DI 13+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 17

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-6-8, AS ADDED BY P.L.2-2003, SECTION
2 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2004]: Sec. 8. (a) The superintendent may establish a data base of DNA
4 identification records of:
5 (1) convicted criminals;
6 (2) crime scene specimens;
7 (3) unidentified missing persons; and
8 (4) close biological relatives of missing persons.
9 (b) The superintendent shall maintain the Indiana DNA data base.
10 (c) The superintendent may contract for services to perform DNA
11 analysis of convicted offenders under section 10 of this chapter to assist
12 federal, state, and local criminal justice and law enforcement agencies
13 in the putative identification, detection, or exclusion of individuals who
14 are subjects of an investigation or prosecution of a sex offense, a
15 violent crime, or another crime in which biological evidence is
16 recovered from the crime scene.
17 (d) The superintendent shall adopt rules under IC 4-22-2 necessary

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to administer and enforce the provisions and intent of this chapter.

(e) The detention, arrest, or conviction of a person based upon a data base match or data base information is not invalidated if it is determined that the sample was obtained or placed in the data base by mistake.

SECTION 2. IC 10-13-6-10, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) This section applies to the following:

(1) A person convicted of a felony under IC 35-42 (offenses against the person), IC 35-43-2-1 (burglary), **IC 35-43-2-1.5 (residential entry)**, or ~~IC 35-42-4-6 (child solicitation)~~; **IC 35-46-1-3 (incest)**:

(A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.

(2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:

(A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(3) A person convicted of conspiracy or attempt to commit an offense described in subdivision (1) or (2):

(A) after June 30, 2004, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 2004, if the person is held in jail or prison on or after July 1, 2004.

(b) A person described in subsection (a) shall provide a DNA sample to the:

(1) department of correction or the designee of the department of correction if the offender is committed to the department of correction; or

(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation.

A ~~convicted~~ person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 17, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 17 as introduced.)

GARTON, Chairperson

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SENATE MOTION

Madam President: I move that Senator Bray be added as second author and Senators Broden and Ford be added as coauthors of Senate Bill 17.

ZAKAS

SENATE MOTION

Madam President: I move that Senator Bowser be added as coauthor of Senate Bill 17.

ZAKAS

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 17, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-6-8, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The superintendent may establish a data base of DNA identification records of:

- (1) convicted criminals;
- (2) crime scene specimens;
- (3) unidentified missing persons; and
- (4) close biological relatives of missing persons.

(b) The superintendent shall maintain the Indiana DNA data base.

(c) The superintendent may contract for services to perform DNA analysis of convicted offenders under section 10 of this chapter to assist federal, state, and local criminal justice and law enforcement agencies in the putative identification, detection, or exclusion of individuals who are subjects of an investigation or prosecution of a sex offense, a violent crime, or another crime in which biological evidence is recovered from the crime scene.

(d) The superintendent shall adopt rules under IC 4-22-2 necessary to administer and enforce the provisions and intent of this chapter.

(e) The detention, arrest, or conviction of a person based upon a data base match or data base information is not invalidated if it is determined that the sample was obtained or placed in the data base by mistake."

Page 1, line 6, strike "IC 35-42-4-6 (child solicitation):" and insert **"IC 35-46-1-3 (incest):"**.

Page 2, between lines 2 and 3, begin a new line block indented and insert:

"(3) A person convicted of conspiracy or attempt to commit an offense described in subdivision (1) or (2):

(A) after June 30, 2004, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 2004, if the person is held in jail or prison on or after July 1, 2004."

Page 2, line 12, strike "convicted".

Page 2, delete lines 15 through 42.

Delete pages 3 through 4.

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 17 as printed December 8, 2003.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 17, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 13, nays 0.

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